

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 5021	DATE	7/19/2002
CASE TITLE	Lisa Calimese vs. City of Chicago et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Memorandum Opinion and Order

DOCKET ENTRY:

(1) Filed motion of [use listing in "Motion" box above.]

(2) Brief in support of motion due _____.

(3) Answer brief to motion due _____. Reply to answer brief due _____.

(4) Ruling/Hearing on _____. set for _____. at _____.

(5) Status hearing[held/continued to] [set for/re-set for] on _____. set for _____. at _____.

(6) Pretrial conference[held/continued to] [set for/re-set for] on _____. set for _____. at _____.

(7) Trial[set for/re-set for] on _____. at _____.

(8) [Bench/Jury trial] [Hearing] held/continued to _____. at _____.

(9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 FRCP4(m) General Rule 21 FRCP41(a)(1) FRCP41(a)(2).

(10) [Other docket entry] Enter Memorandum Opinion and Order. Plaintiff's petition to proceed in forma pauperis is granted.

(11) [For further detail see order attached to the original minute order.]

No notices required, advised in open court. No notices required. Notices mailed by judge's staff. Notified counsel by telephone. Docketing to mail notices. Mail AO 450 form. Copy to judge/magistrate judge.		U.S. DISTRICT COURT CLERK	number of notices JUL 22 2002 date docketed WB docketing deputy initials date mailed notice mailing deputy initials	6
WAH	courtroom deputy's initials 10-0757-10			

Date/time received in central Clerk's Office

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MEMORANDUM OPINION AND ORDER

Plaintiff Lisa Calimese brings this complaint alleging constitutional violations. Along with her complaint plaintiff has filed an application to proceed *in forma pauperis*. For the following reasons, plaintiff's petition to proceed *in forma pauperis* is granted.

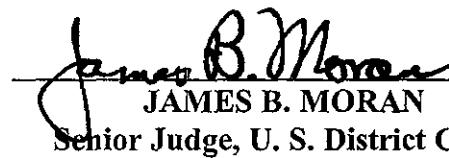
Under 28 U.S.C. § 1915(a) the court may authorize a plaintiff to proceed *in forma pauperis* if she is unable to pay the prescribed court fees. The application here indicates that plaintiff is currently unemployed. While plaintiff states she receives some money from public aid, she does not identify any other source of savings or income. On these facts, plaintiff has established her inability to pay court fees.

Our inquiry does not end with a finding of indigency, however. Under section 1915 we must conduct an initial review of plaintiff's claims and dismiss the action if we find that the action is frivolous or malicious; it fails to state a claim on which relief may be granted; or petitioner seeks damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B)(i)-(iii); Alston v. Debruy, 13 F.3d 1036, 1039 (7th Cir. 1994). This action does not appear to be frivolous or malicious and defendants are not immune to liability. Our only

inquiry, then, is whether plaintiff has properly stated a claim. We apply the same standards as if this were an ordinary dismissal under Fed.R.Civ.P. 12(b)(6). Zimmerman v. Tribble, 266 F.3d 568, 571 (7th Cir. 2000).

The facts of this case are taken from plaintiff's complaint. Plaintiff alleges that her Fourth and Fourteenth Amendment rights were violated when a Chicago police officer accused her of making false claims. Plaintiff states that the police officer arrived at this conclusion because plaintiff is mentally ill. In so far as plaintiff alleges that the police discriminated against her on the basis of her mental illness, she has stated a recognizable claim under the equal protection clause of the Fourteenth Amendment. In order to succeed on this claim plaintiff will eventually have to show that there is no rational basis for this alleged discrimination. Board of Trustees of University of Alabama v. Garrett, 531 U.S., 356, 357 (2001) *citing Cleburne v. Cleburne Living Center*, 473 U.S. 432. Under the minimal Rule 12(b)(6) standard, plaintiff's complaint can go forward.

For the above reasons, plaintiff's petition to proceed *in forma pauperis* is granted.



JAMES B. MORAN
Senior Judge, U. S. District Court

July 19, 2002.